

APPEAL NO. 010870
FILED JUNE 5, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 23, 2001. The hearing officer determined that the injury sustained by the appellant (claimant) on _____, did not extend to and include an injury to the claimant's lumbar spine, and that the claimant did not have disability beginning on December 29, 2000, continuing through the date of the CCH, due to the compensable sacroiliac joint strain on the right side. These determinations were adverse to the claimant, and the claimant has appealed. The respondent (carrier) has responded, and urges that the hearing officer be affirmed.

DECISION

Affirmed.

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). This case was a credibility case, where the hearing officer determined from the conflicting evidence that the claimant did not meet her burden of proving by a preponderance of the evidence that her compensable injury extended to and included her lumbar spine, and that she did not meet her burden of proving that she had disability beginning on December 29, 2000, and continuing through the date of the CCH, as a result of the compensable injury which she sustained on _____. The hearing officer's determinations on the issues were not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We therefore affirm the decision and order of the hearing officer.

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge